

Panaji, 13th September, 1991 (Bhadra 22, 1913)

SERIES I No. 24

OFFICIAL GAZETTE

GOVERNMENT OF GOA



Note: There is one Extraordinary issue to the Official Gazette, Series I No. 23 dated 5-9-1991, with the same date, from pgs. 259 to 262, regarding Notifications from Finance (Revenue and Control) Department.

GOVERNMENT OF GOA

Transport Department

Notification

5/9/90-TPT

In exercise of the powers conferred by clause (xii) of sub-rule (1) of Rule 22 of the Goa, Daman and Diu Motor Vehicles Tax Rules, 1974, the Government of Goa hereby notifies the Holy Cross Corso Farm Welfare Society, Marna, Siolim as a "Charitable/Welfare" institution for the purpose of the said rules.

By order and in the name of the Governor of Goa.

K. M. Nambiar, Under Secretary to the Govt. of Goa, Transport Department.

Panaji, 14th August, 1991.

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Law (Legal and Legislative Affairs) Department

Notification

7-2-89/LA

The Goa Public Men's Corruption (Investigations and Inquiries) Act, 1988 (Goa Act 7 of 1991) which has been passed by the Legislative Assembly of Goa on 28-12-1988 and assented to by the President of India on 20-8-1991, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 3rd September, 1991.

The Goa Public Men's Corruption (Investigations and Inquiries) Bill, 1988

(Goa Act 7 1991) [20-8-1991]

AN

ACT

to make provision for the constitution of Commission for investigation of, and inquiry into, complaints against public men and for matters connected therewith.

Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Goa Public Men's Corruption (Investigations and Inquiries) Act, 1988.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires:—

(a) "Commission" means a Commission constituted under section 4;

(b) "complaint" means a complaint alleging that a public man has committed corruption;

(c) "competent authority" in relation to a public man means,—

(i) in the case of Chief Minister or a Member of the State Legislature, the Governor acting in his discretion;

(ii) in the case of Minister, the Chief Minister;

(iii) in the case of any other public man, such authority as may be prescribed;

(d) "family" of a public man means the spouse and such parents, unmarried sisters and children of the public man as are dependent on him;

(e) "Governor" means the Governor of Goa;

(f) "local authority" means a Municipal Corporation or a Municipal Council or a Planning Development Authority or a Township Committee or a Panchayat;

(g) "member" means a member of the Commission;

(h) "political party" means a political party or group which has representation in Parliament or in the Legislative Assembly; or a political party which is treated as a recognised political party in accordance with paragraph 6 of Election Symbols (Reservation and Allotment) Order, 1968;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "public man" means a person who holds or has held in the State, the Office of—

(i) a Minister or the Chief Minister of the State of Goa; or

- (ii) a member of the Legislative Assembly of the State of Goa; or
- (iii) the President or the Vice-President or the Chairman or the Vice-Chairman or the Secretary, or the Managing Director (by whatever name called) of —
 - (A) a local authority; or
 - (B) a Government Company as defined in section 617 of the Companies Act, 1956 (Central Act 1 of 1956); or
 - (C) a statutory body or Corporation or Board established by or under a statute and owned or controlled by the Government of Goa, including a co-operative society; or
 - (D) any other Corporation or Board or Society owned or controlled by the Government of Goa; or
 - (iv) a member of a local authority or the Syndicate or Executive Committee of a University established by the Goa University Act, 1984 (Act 7 of 1984) or a member or Director (by whatever name called) of a body or corporation or Board or Society referred to in item (C) and item (D) of sub-clause (iii); or
 - (v) a member of the State Transport Authority or any Regional Transport Authority; or
 - (vi) the President, Secretary or Treasurer or any other office bearer of a registered trade union; or
 - (vii) the Chairman or Vice-Chairman or President or Vice-President or Secretary or Treasurer or any other office bearer of a political party at the District or State level; or
 - (viii) the Chairman or Manager or Secretary or Correspondent having control over the administration of a Private School, whether under individual or corporate management, which receives or has received aid or grant from the Government under the Goa, Daman and Diu School Education Act, 1984 (Act 5 of 1984) and the rules made thereunder; or
 - (ix) the Chairman or Manager or Secretary or Correspondent having control over the Administration of a Private College whether under a unitary or corporate management which is affiliated to a University in the State of Goa and which received aid or grant from the Government; or
 - (x) the Chairman or Manager or Secretary or Correspondent having control over the administration of a Private Engineering College or Private Polytechnic whether under a unitary or corporate management, affiliated to a University in the State of Goa or State Board of Technical Examination, Goa as the case may be.

Explanation: — In this clause —

- (a) "co-operative society" means a co-operative registered or deemed to have been registered under the Maharashtra Co-operative Societies Act, 1960 as in force in the State of Goa;
- (b) "society" means a society registered in the State under the Societies Registration Act, 1860 (Central Act 21 of 1860);

(c) "registered trade union" means a trade union registered under the Trade Union Act, 1926 (Central Act 16 of 1926);

(d) "public servant" means a public servant as defined in section 21 of the Indian Penal Code (Central Act 45 of 1860);

(e) "State" means the State of Goa;

3. Definition of corruption. — Whoever being a public man —

(a) accepts or obtains from any person for himself or for any other person, any gratification whatsoever, other than legal remuneration, as a motive or reward for doing or for bearing to do any official act or showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering any service or disservice to any person, with the Government or any Board, authority, body, Corporation, Company or Society referred to in sub-clauses (iii), (iv) and (v) of clause (j) of section 2 or with any public man or public servant as such; or

(b) accepts or obtains from any person for himself or for any other person, any gratification whatsoever as a motive or reward for inducing, by corrupt or illegal means or by the exercise of personal influence, any public man or public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public man or public servant, to show favour or disfavour to any person, with the Government or any Board, authority, body, Corporation, Company or Society referred to in sub-clauses (iii), (iv), (v) and (vi) of clause (j) of section 2 or with any public man or public servant as such; or

(c) by corrupt or illegal means or by otherwise abusing his position as a public man obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(d) abusing his position as a public man wilfully does any act in contravention of any provision of any law for the time being in force intending to show undue favour or cause injury to any person; or

(e) accepts or obtains for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public man or having any connection with the official functions of himself or of any public servant or from any person whom he knows to be interested in or related to the person so concerned; or

(f) himself, or any member of his family or any other person on his behalf is in possession, or has at any time during the period of his office, been in possession, for which the public man cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income; or

(g) abusing his position as a public man shows any act of favouritism or nepotism in the discharge of his official functions by obtaining any monetary gain for himself or for his family; is said to commit corruption.

Explanation I. — The word "gratification" means pecuniary gratification and gratification estimable in money.

Explanation II. — The word "law" includes any Ordinance, bye-law, rule, regulation or notification.

Explanation III. — The words "legal remuneration" are not restricted to remuneration which a public man can lawfully demand, but includes all remuneration which is lawfully permissible.

Explanation IV. — A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within the expression "a motive or reward for doing".

4. Constitution of Commission. — (1) For the purpose of conducting investigations and inquiries in accordance with the provisions of this Act, the Governor shall constitute a Commission consisting of three members.

(2) The Governor shall, on the advice tendered by the Chief Minister in consultation with the Senior Judge of High Court of Judicature at Bombay, Panaji Bench and the Leader of Opposition in the Goa Legislative Assembly, appoint the members of the Commission and one of such members who holds or has held office as Judge of the Supreme Court or of the High Court referred to in sub-section (2), to be the Chairman thereof.

(3) One of the persons to be appointed as member of the Commission shall be one who holds or has held office as Judge of the Supreme Court or that of High Court and the other persons to be appointed as members of the Commission shall be persons qualified to be appointed as a Judge of the High Court.

(4) Every matter to be decided by the Commission shall be decided in accordance with the opinion of the majority of the members.

(5) A person appointed as member of the Commission shall, before he enters his office, make and subscribe before the Governor or some person appointed in that behalf by him, oath or affirmation according to the Form set out hereunder: —

(a) "I, A. B. ... having been appointed as member of the Commission under the Goa Public Men's Corruption (Investigations and Inquiries) Act, 1988 do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will"; and

(b) "I, ... do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or

persons any matter which shall be brought under my consideration or shall become known to me as a member of the Commission except as may be required for due discharge of my duties as such member".

(6) The Chairman shall: —

(a) preside over the sittings of the Commission; and

(b) in consultation with the other members exercises administrative control over the Secretary and other officers and employees of the Commission".

5. Member not to hold any other office. — (1) The member of the Commission shall not be a member of the Parliament or be a member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as member) or carry on any business or practice any profession and accordingly, before he enters upon his office as member, except a Judge of the Supreme Court or of High Court, shall, —

(a) if he is a member of the Parliament or of the Legislature of any State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is carrying on any business, resign from the management and conduct of business (short of divesting himself of ownership); or

(d) if he is practising any profession, suspend practice of such profession.

(2) A person who has been a member of a political party at any time during the period of five years immediately preceding —

(a) the commencement of this Act in the case of first appointment after such commencement; or

(b) the date on which the vacancy has arisen, in the case of any subsequent appointment; shall not be eligible to be appointed as member.

6. Term of office and other conditions of service of members. — (1) A person appointed as member shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of seventy years, whichever is earlier:

Provided that, —

(a) the member may, by writing under his hand addressed to the Governor, resign his office;

(b) the member may be removed from office in the manner provided in section 7.

(2) On ceasing to hold office, the member shall be ineligible for re-appointment as member or for further employment to any office of profit under the Government of Goa or in any Authority, Corporation, Company, Society or University referred to in clause (j) of section 2.

Explanation: — The re-assumption of office by a member as Judge of the Supreme Court or High Court as the case may be, on his ceasing to hold office as such member, shall not be deemed to be further employment to any office of profit referred to in this sub-section.

(3) The member shall have the like status, shall be entitled to the same salary, allowances and pension and shall be subject to the same conditions of service, as a Judge of the High Court:

Provided that, the status, salary, allowances, pension and other conditions of service of a Judge of the Supreme Court or a retired Judge of the Supreme Court appointed as member shall be the same as a Judge of the Supreme Court:

Provided further that, if the member at the time of his appointment is in receipt of pension in respect of any previous service, as a Judge under the Government of India or under the Government of a State, his salary in respect of service as member shall be reduced—

(a) by the amount of that pension, except pension received as freedom fighter;

(b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension; and

(c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity:

Provided also that the allowances payable to, and other conditions of service of the member shall not be varied to his disadvantage after his appointment.

(4) The expenditure in respect of the salaries and allowances of the member of the Commission shall be charged on the Consolidated Fund of the State.

7. Removal of member.— (1) The member shall not be removed from his office except by an order of the Governor passed after an address by the State Legislative Assembly supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of the Legislative Assembly present and voting has been presented to the Governor in the same session for such removal on the ground of proved misbehaviour or incapacity.

(2) The procedure of the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of the member under sub-section (1) shall be as provided in the Judges (Inquiry) Act, 1968 (Central Act 51 of 1968).

8. Staff of Commission.— (1) The Commission shall have a Secretary and such other officers and employees as may be determined by the Governor in consultation with the Commission to assist the Commission in the exercise of its powers and the discharge of its functions under this Act.

(2) The conditions of service of the Secretary and other officers and employees shall be such as may be specified by the Governor.

(3) Appointment of Secretary and other officers and employees shall be made by the Commission:

Provided that where such appointment is made by direct recruitment the Goa Public Service Commission shall be consulted.

(4) The rules for reservation of appointments and posts in Government service in favour of the Scheduled Castes, Scheduled Tribes and Other Backward Classes of Citizens shall, *mutatis mutandis*, apply to appointments to be made under sub-section (1).

(5) Without prejudice to the provisions of sub-sections (1), (2), (3) and (4), the Commission may, for the purpose of dealing with any particular case or class of cases, secure—

(i) the services of any officer or employee or investigating agency of the Government of Goa or the Government of India with the concurrence of that Government; or

(ii) the services of any expert.

(6) The terms and conditions of service of the officers, employees, agencies and persons referred to in sub-section (5) shall be such as may be specified by the Commission.

(7) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (5) shall be subject to the exclusive administrative control and direction of the Commission.

9. Matters which may be investigated by Commission.— (1) Subject to the provisions of this Act, the Commission may investigate any complaint presented to it under section 11.

(2) Notwithstanding anything contained in this Act, where any allegation of corruption against any public man comes to the knowledge or is brought to the notice of the Government, they may, if satisfied that it is necessary in the public interest so to do, by order in writing refer such allegation of corruption to the Commission for investigation and the Commission shall investigate the same as if it were a complaint presented under this Act.

(3) For the purposes of this Act, the person who made the allegation of corruption referred to in sub-section (2) shall be deemed to be the complainant.

10. Matters not subject to investigation.— Except as hereinafter provided, the Commission shall not investigate,—

(a) any matter in respect of which a formal and public inquiry has been ordered with the prior concurrence of the Commission;

(b) any matter which has been referred for inquiry, under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952), with the prior concurrence of the Commission;

(c) any complaint made after the expiry of five years from the date on which the matter complained against is alleged to have taken place:

Provided that the Commission may entertain a complaint referred to in this clause, if the complainant satisfies that he had sufficient cause for not making the complaint within the period specified in this clause.

11. Complaint for initiating proceedings. — (1) Any person, other than a public servant or Service Association, may present to the Commission a complaint with an additional copy for service on the opposite party requesting that such complaint may be investigated under this Act.

(2) Every complaint under sub-section (1) shall be accompanied by an affidavit in support of the allegation contained therein and a treasury receipt evidencing the deposit of a sum of five hundred rupees:

Provided that no such treasury receipt shall be necessary where the complaint is presented jointly by not less than five Members of the Legislative Assembly.

(3) Every complaint under sub-section (1) as well as any Schedule or annexure thereto shall be verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), for the verification of pleadings.

(4) Notwithstanding anything contained in the foregoing sub-sections, any letter written to the Commission or, as the case may be, to the appropriate authority by a person in any jail may, if the Commission or, as the case may be, the appropriate authority is satisfied that it is necessary so to do, be treated as a complaint made in accordance with the provisions of this section.

(5) Notwithstanding anything contained in any other enactment, it shall be the duty of a Police Officer or other person in charge of any jail to forward, without opening, any letter addressed to the Commission or the appropriate authority by a person imprisoned or detained in such jail to the Commission or the appropriate authority without delay.

Explanation. — “Appropriate authority” means any of the authorities which the Commission may, by general or special order, in writing, determine to be appropriate authorities for the purposes of this section.

12. Preliminary investigation. — (1) On receipt of a complaint under section 11, the Commission shall, in a case not falling under section 10, scrutinise the same and shall furnish a copy of the complaint to the public man and also give the complainant and the public man concerned an opportunity of being heard in the matter.

(2) The Commission may make such order as to the safe custody of documents relevant to the investigation as it deems fit.

(3) The procedure for conducting any such investigation shall be such as the Commission deems appropriate in the circumstances of the case.

13. Result of preliminary investigation and further action. — (1) If after the preliminary investigation under section 12, the Commission is of the opinion that —

(a) the complaint is frivolous or vexatious or is not made in good faith; or

(b) there are no sufficient grounds for proceeding further; or

(c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies;

it shall record its findings stating the reasons therefor and communicate the same to the public man and to the complainant and the competent authority.

(2) If, after the preliminary investigation under section 12, the Commission is of the opinion that there is a *prima facie* case against the public man, it shall record a finding to that effect and report the finding to the competent authority stating the reasons for such finding and proceed to make a detailed investigation.

(3) The Commission shall, subject to the provisions of this Act and of the rules made thereunder, have power to regulate its own procedure including the fixing of the time and place of sitting.

(4) The public man against whom investigation has to be made under this section and the complainant, if any, shall have the right to be represented in person or by counsel.

(5) In every detailed investigation under this Act, the Government shall be made a party.

(6) The Commission may, if it considers necessary to do so, having regard to the nature and circumstances of the case under investigation, appoint a counsel to assist it on such terms and conditions as may be prescribed.

(7) The Commission may, at any stage, also permit —

(a) any witness; or

(b) any other person,

who claims that he is to be represented in person or by counsel to take such part in the proceedings as the Commission may, in the interest of justice, think fit.

14. Issue of search warrant, etc. — (1) Where in the course of preliminary investigation the Commission is satisfied that there is substance in the allegation of corruption or where on any subsequent occasion the Commission is satisfied that it is necessary so to do and, —

(a) has reason to believe that any person —

(i) to whom a summons or notice under this Act has been issued, will not produce or cause to be produced any property, document, or thing which will be necessary or useful for, or relevant to, any investigation or other proceeding to be conducted by it;

(ii) is in possession of any money, bullion or other valuable article or thing and such money, bullion, or other valuable article or thing represents either wholly or partly income or property which has not been disclosed to the authorities for the purpose of any law or rule in force which requires such disclosure to be made; or

(b) considers that the purposes of any investigation or other proceedings to be conducted by it will be served by a general search or inspection; it may by a search warrant authorise any Police Officer of the rank of Inspector General of Police where the complaint is against a public man who is or has been the Chief Minister or a Minister or a Member of a Legislative Assembly of the State of Goa, or an office bearer of a political party at the State level and a Police Officer of the rank of Superintendent of Police or Deputy Superintendent of Police where the complaint is against any other public man to conduct a search or carry out an inspection in accordance therewith and in particular to, —

(i) enter and search any building or place where it has reason to suspect that such property, document, money, bullion, or other valuable article or thing is kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i) where the keys thereof are not available;

(iii) search any person who is reasonably suspected of concealing about his person any article for which search should be made;

(iv) seize any such property document, money, bullion or other valuable article or thing found as a result of such search;

(v) place marks of identification on any property or document or make or cause to be made extract or copies therefrom; or

(vi) make a note or an inventory of any such property, document, money, bullion or other valuable article or thing.

(2) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), relating to search and seizure shall apply, so far as may be, to searches and seizures under sub-section (1).

(3) A warrant issued under sub-section (1) shall, for all purposes, be deemed to be a warrant issued by a court under section 93 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

15. Evidence. — (1) Subject to the provisions of this section, for the purpose of any investigation (including preliminary investigation) under this Act, the Commission may require any public servant or any other person, who in its opinion, is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such document.

(2) For the purpose of any such investigation the Commission shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely: —

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) such other matters as may be prescribed.

(3) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code (Central Act 45 of 1860).

(4) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document, —

(a) as might prejudice the interests of the State of Goa or the security or defence or international relations of India (including India's relations with the Government of any other country or with any international organisation);

(b) as might involve the disclosure of proceedings of the Cabinet of the State Government or any Committee of that Cabinet;

and for the purpose of this sub-section, a certificate issued by the Chief Secretary of the State certifying that any information, answer, portion of a document is of the nature specified in clause (a) or clause (b), shall be binding and conclusive.

(5) For the purpose of investigation under this Act, no person shall be compelled to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a court.

16. Prosecution for false evidence. — For prosecution for an offence of giving or fabricating false evidence under section 193 of the Indian Penal Code, 1860 (Central Act 45 of 1860), when such offence is alleged to have been committed in, or in relation to, any proceeding before the Commission, the provisions of section 195 and 340 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply to the Commission as they apply in relation to the same offence, when such offence is alleged to have been committed in, or in relation to, any proceeding in any court subject to the modification that a complaint under section 340 shall be signed by the member or such officer of the Commission as the Commission may appoint and for the purpose of the said sections 195 and 340 the Commission is declared to be a court.

17. Reports of Commission. — (1) If, after investigation of any complaint, the Commission is satisfied that all or any of the allegations made in the complaint have or has been substantiated either wholly or partly, it shall, by report in writing, communicate its findings and recommendations along with the relevant documents, materials and other evidence to the competent authority and a copy of the report regarding the findings and recommendations to the Government.

(2) The competent authority shall examine the report forwarded to it under sub-section (1) and within three months of the date of receipt of the report, intimate or cause to be intimated to the Commission the action taken or proposed to be taken on the basis of the report.

(3) If the Commission is satisfied with the action taken or proposed to be taken on its recommendations or findings referred to in sub-section (1), it shall close the case under information to the complainant, the public man and the competent authority concerned; but where it is not so satisfied and if it considers that the case so deserves, it may make a special report upon the case to the Governor and also inform the competent authority concerned and the complainant.

(4) The Commission shall present annually a consolidated report on the performance of its functions under this Act to the Governor.

(5) On receipt of the special report under sub-section (3), or the annual report under sub-section (4), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before the Legislative Assembly of Goa.

(6) The Commission may at its discretion make available, from time to time, the substance of cases closed or otherwise disposed of by it which may appear to it to be of general, public, academic or professional interest in such manner and to such persons as may be prescribed.

18. Public man to vacate office if directed by Commission. — Where, after an investigation under this Act, the Commission is satisfied that an allegation against a public man specified in sub-clauses (i), (ii), (iii), (iv), (v), (vi), (ix), (x) and (xi) of clause (j) of section 2 has been substantiated and that such public man should not continue to hold the post held by him, the Commission shall make a declaration to that effect in its report under sub-section (1) of section 17 and thereupon the competent authority shall accept the declaration and intimate immediately the fact of such acceptance to the public man by registered post and then notwithstanding anything contained in any law, order, notification, rule or contract of appointment, the public man shall with effect from the date of such intimation, —

(i) if he is the Chief Minister or a Minister or a Member of the Legislative Assembly of the State, resign his office;

(ii) if he is any other person specified in sub-clauses (iii), (iv), (v), (viii), (ix) and (x) of clause (j) of section 2, be deemed to have vacated his office.

19. Initiation of prosecution. — If, after investigation into any complaint, the Commission is satisfied that the public man has committed any criminal offence and that he should be prosecuted in a court of law for such offence, then, it may pass an order to that effect and initiate prosecution of the public man concerned, if there is no necessity for prior sanction, and if prior sanction of any authority is required for such prosecution, then notwithstanding anything contained in any law, such a sanction shall be granted by the competent authority within thirty days of the request by the Commission; and if such sanction is not granted within the period aforesaid such sanction shall be deemed to have been granted by the competent authority.

20. Secrecy of information. — (1) Any information obtained by the Commission or members of its staff or any investigating agency in the course of, or for the purpose of any investigation under this Act and any evidence recorded or collected in connection with such investigation shall be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act I of 1872), no court shall be entitled to compel the Commission or any member of its staff or any investigating agency to give evidence relating to such information or produce the evidence so recorded or collected.

(2) Nothing in sub-section (1) shall apply to the disclosure of any information or particulars —

(a) for the purpose of the investigation or in any report to be made thereon or for any action or proceedings to be taken on such report; or

(b) for the purpose of any proceedings for an offence under the Official Secrets Act, 1923 (Central Act 19 of 1923), or any offence of giving or fabricating false evidence under section 193 of the Indian Penal Code (Central Act 45 of 1860), or for purpose of trial of any offence under section 19 or for purpose of any proceedings under section 21; or

(c) for such other purposes as may be prescribed.

21. Power to punish for contempt. — The Commission shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as the High Court has and may exercise and for this purpose, the provisions of the contempt of Courts Act, 1971 (Central Act 70 of 1971), shall have effect subject to the modification that the references therein to High Court shall be construed as including a reference to the Commission.

22. Protection of action taken under the Act. — (1) No suit, prosecution or other legal proceeding shall lie against the Commission or against any officer, employee, agency or person referred to in section 8 in respect of anything which is in good faith done or intended to be done under this Act.

(2) No proceeding of the Commission shall be held invalid for want of form and, except on the ground of jurisdiction, no proceeding or decision of the Commission shall be liable to be challenged, reviewed or called in question in any court.

23. Power to delegate. — The Commission may, by general or special order in writing, direct that any power conferred or duties imposed on it by or under this Act (except the power to make investigation or to report to the competent authority or the power vested under section 21) may also be exercised or discharged by such of the officers, employees, agencies or experts referred to in section 8 as may be specified in the order.

24. Conferment of additional function on Commission. — (1) The Governor may, by order in writing and subject to such conditions or limitations as may be specified in the order, require the Commission to investigate any allegation (being an allegation in respect of which a complaint may be made) specified in the order in respect of a public man and

notwithstanding anything contained in this Act, the Commission shall comply with such order.

(2) When the Commission is to make any investigation under sub-section (1), the Commission shall exercise the same powers and discharge the same functions as it would in the case of any investigation made on a complaint under this Act and the provisions of this Act shall apply accordingly.

25. Public man to submit property statements. — (1) Every public man specified in sub-clause (i), sub-clause (ii), sub-clause (iii), sub-clause (iv) and sub-clause (v) of clause (j) of section 2 shall, within six months after the commencement of this Act and thereafter before the 30th day of June once in two years, submit to the competent authority in the prescribed form a statement of his assets and liabilities and those of the members of his family.

(2) If within three months after the date mentioned in sub-section (1), the public man concerned does not submit such statements, the competent authority shall intimate the fact to the Commission and thereupon the Commission may take such action with respect to the matter as may be prescribed.

26. Bar to inquiries. — No formal or open inquiry into any allegation against any public man in respect of which a complaint has been presented under section 11 shall be made at the instance of the Government either under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952), or by any other order or resolution of the Government, but nothing herein contained shall be construed as affecting any right or power of any other person or authority under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), or under any other law for the time being in force, or as affecting the constitution of, or the continuance of the functioning of or exercise of powers by any Commission or Commission of Inquiry appointed before the commencement of this Act.

27. Costs. — (1) The Commission may, in case the allegation made in the complaint is found to be false or vexatious to the knowledge of the complainant, order the complainant to pay cost/compensation of not more than rupees twenty five thousand, to the public man against whom the allegation has been made.

(2) The Commission may order any part of the costs ordered to be paid under sub-section (1) to be paid out of any amount deposited under section 11 and issue a certificate of recovery in respect of the remainder, if any.

(3) The Commission may, if it is satisfied that all or any of the allegations made in the complaint against a public man have or has been substantiated either wholly or partly, order the public man to pay such amount of costs as may be specified in the order to the complainant and issue a certificate of recovery in respect of the amount so specified.

(4) Any person in whose favour a certificate is issued under sub-section (2) or sub-section (3) may apply to the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person against whom a certificate is issued has a place of residence or business for recovery of the

amount specified in the certificate and such court shall thereupon execute the certificate, or cause the same to be executed, in the manner and by the same procedure as if it were a decree for the payment of money passed by itself in a suit.

28. Disposal of deposit. — Subject to the provisions of sub-section (2) of section 27, the Commission shall at the end of the investigation make such orders in respect of the sum deposited by any complainant under section 11 including orders for the forfeiture of the whole or any portion of such sum as having regard to the circumstances of the case, it thinks fit.

29. Pendency of case not to bar proceedings under this Act. — The pendency of any civil or criminal case in the High Court or any court subordinate thereto in respect of any allegation shall not bar the scrutiny, investigation or inquiry of or into that allegation under this Act, and no such scrutiny, investigation or inquiry shall be deemed to amount to contempt of such Court.

30. Bar of prosecution on allegations not proved or not substantiated. — Notwithstanding anything contained in any other law for the time being in force, where on an investigation in respect of a complaint against a public man the Commission has held that any allegations made in the complaint have not been proved or substantiated, no prosecution shall lie on any complaint, report, information or otherwise and no court shall take cognizance of any offence on the basis of the same or substantially the same allegations as in the complaint.

31. Commission to make suggestions. — The Commission, if in the discharge of its function under this Act, notices a practice or procedure which in its opinion affords an opportunity for corruption, it may bring it to the notice of the Government and may suggest such changes in the said practice or procedure as it may deem fit.

32. Powers to make rules. — (1) The Government may, by notification in the Government Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide —

(a) the form in which complaints may be made under section 11;

(b) the conditions of service of the member of the Commission;

(c) the powers of civil court which may be vested in the Commission;

(d) the deposit, forfeiture, refund or disposal of sums referred to in section 11;

(e) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule

or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

33. Power to remove difficulties. — (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions which appear to them to be necessary or expedient for the purpose of removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

(3) Every order made under sub-section (1) shall be laid, as soon as may be after it is made,

before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the order, or decides that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Secretariat Annexe,

B. S. SUBBANNA,

Panaji.

Secretary to the Government of Goa,
Law Department (Legal Affairs)

Datd: 3-9-1991